

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

R.A., JR., etc.,)	
)	
Plaintiff,)	
)	
vs.)	CIVIL ACTION NO. 3:06cv337-WHA
)	
DEPUTY SHERIFF WALTER LACEY,)	
)	
Defendant.)	

ORDER

This case is before the court on Plaintiff's Objections to Defendant's Exhibit List (Doc. #47), filed on April 19, 2007. Upon consideration of the objections, and Defendant's response thereto, it is hereby ORDERED as follows:

1. Defendant's Exhibit 1: photograph of .38 caliber revolver. Plaintiff's objection based on non-disclosure is OVERRULED, in that the Defendant produced this photograph within the time required by orders of the court. The objection as to relevance and prejudice presents different questions.

If the Defendant testifies that he saw the gun before his actions involving the Plaintiff, and identifies the picture as a picture of the gun he saw, the objection will be overruled, since this would be relevant to the actions taken by him. Otherwise, the objection is GRANTED, unless the Defendant first lays an appropriate foundation for admissibility. This would be determined based on the state of the evidence at the time of the offer, either as direct evidence, impeachment, or rebuttal. Any such proffer will be taken up outside the presence of the jury.

2. Defendant's Exhibit 3: Statement from Plaintiff to ABI Investigator. While the objection is headed "Statement from Plaintiff to ABI Investigator," the objection refers to the statement as one signed by Richard Arnold, who is not the Plaintiff, but the father and next friend of the Plaintiff. The Defendant responds that the statement is not inadmissible hearsay because it qualifies as an admission by a party opponent under Rule 801(d)(1), *F.R.E.* It is not clear to the court how the Defendant would propose to use this statement. Therefore, the objection is GRANTED to the extent that the statement will not be admitted without the Defendant first laying a proper foundation.

3. Defendant's Exhibit 4: Final Summary Report by Alabama Bureau of Investigation. This Final Summary Report has not been submitted to the court, and the court cannot make a determination without reviewing it. Therefore, the court reserves ruling until the report has been offered and the court has an opportunity to review it.

4. Defendant's Exhibit 5: Letter from District Attorney's Office to Sheriff Warren. Defendant has withdrawn this exhibit.

5. Defendant's Exhibit 9: Grade Report and Disciplinary Report of Richard Arnold, Jr. The objection is SUSTAINED to the extent that the exhibit will not be admitted without the laying of an appropriate foundation based on the state of the evidence at the time of an offer.

DONE this 21st day of May, 2007.

/s/ W. Harold Albritton
W. HAROLD ALBRITTON
SENIOR UNITED STATES DISTRICT JUDGE